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# Guide for employers regarding Employment application forms and Interviews under the Ontario Human Rights Code

Distributed by the Ontario Human Rights Commission, Department of Labour.

## Guide for employers

## The Ontario human rights code

The Ontario Human Rights Code, passed in June 1962 by the Ontario Government, incorporated into one document all of the Province's human rights legislation which had previously existed in the form of several individual acts. One of these was the Fair Employment Practices Act, passed by the Government of Ontario in 1951.

## Underlying principle

The principle underlying the Ontario Human Rights Code as it relates to employment is that a person's race, national origin, colour or religion do not affect his work performance and should not be the subject of employment inquiries which he is required or expected to answer.

## Legislation relating to employment practices

The section of the Ontario Human Rights Code dealing with fair employment practices includes the following provisions:

- No employer or person acting on behalf of an employer shall refuse to employ or to continue to employ

## The Ontario Human Rights Commission

### The Honourable Gordon Carton, Q.C.

Minister of Labour

### Thomas M. Eberlee

Deputy Minister of Labour and Secretary

### Louis Fine, LL.D.

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any person or discriminate against any person with regard to employment or any term or condition of employment because of his race, creed, colour, nationality, ancestry or place of origin.

- No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry that expresses either directly or indirectly any limitation, specification or preference as to the race, creed, colour, nationality, ancestry or place of origin of any person or that requires an applicant to furnish any information concerning race, creed, colour, nationality, ancestry or place of origin.

## Application forms and interviews

In order to assist employers in the process of advertising for and interviewing prospective employees, the *Guide for Employers* has been prepared. The chart indicates the kinds of questions which may be asked of applicants without violation of the Ontario Human Rights Code as well as the kinds of questions which are prohibited by the provisions of the Code.

It should be clearly understood that the contents of this pamphlet do not provide a complete definition of what can be asked of applicants. The guide attempts to answer the questions most frequently asked concerning the legislation. It is not the intention of the Human Rights Code to prohibit employers from obtaining all the information about applicants which they deem pertinent, so long as the questions do not elicit information which could be used for discriminatory purposes. Applicants should not be encouraged to volunteer information forbidden by law.

The Code does not restrict the rights of employers to define qualifications necessary for satisfactory job performance, but does require that these same standards of qualifications for hiring be applied equally to all persons.

## Pre-employment and post-employment inquiries

A distinction may be drawn between pre-employment and post-employment inquiries. In some cases, a question which could be construed as a violation of the Code if asked of an applicant *before* he has been hired, may be appropriately asked *after hiring*, so long as the information obtained is necessary for personnel purposes and is not used as a basis for discrimination in employment because of race, national origin, colour or religion. The chart indicates inquiries which are valid after hiring, such as a request for a birth certificate or a photograph or information regarding religion in order to determine leave-of-absence for religious holidays.

## Age Discrimination Act

The Age Discrimination Act became law in 1966. It prohibits discrimination in employment against persons between the ages of 40 and 65 because of age. The Act also bars age inquiries in employment advertising.

## Further information

Employers are invited to discuss their particular problems or concerns with regard to pre-employment inquiries with the Ontario Human Rights Commission. Further information as well as copies of the Ontario Human Rights Code, the Age Discrimination Act and other publications may be obtained from any office of the Commission.

It is public policy in Ontario that every person is free and equal in dignity and rights regardless of race, creed, colour, age, nationality, ancestry or place of origin.

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## Lawful

## Inquiries before hiring

## Unlawful

a. Maiden name.  
b. Name used if previously employed under different name.

### 1. Name

Inquiry into previous name where it has been changed by court order, or otherwise.

Inquiry into place and length of current and previous addresses in Canada.

### 2. Address

Inquiry into foreign addresses which would indicate national origin.

Request birth certificate after hiring.

### 3. Birthplace, nationality, ancestry, place of origin

a. Request birth certificate or baptismal certificate.  
b. Any inquiry into place of birth.  
c. Any inquiry into place of birth of parents, grandparents, or spouse.  
d. Any other inquiry into national origin.

### 4. Race or colour

Any inquiry which would indicate race, colour or complexion.

May be required after hiring for identification purposes.

### 5. Photographs

Request photograph

### 6. Religion-creed

a. Any inquiry to indicate or identify religious denomination or customs.  
b. May not be told this is a Protestant (Catholic or Jewish) organization.  
c. Request pastor's recommendation or reference.\*

### 7. Citizenship

a. Whether a Canadian citizen or British subject.  
b. If native-born or naturalized.  
c. Date citizenship received.  
d. Proof of citizenship.  
e. Inquiries regarding citizenship status of parents or spouse.  
f. Any inquiry into citizenship status which would tend to divulge applicant's nationality, ancestry, or place of origin.

a. Inquiry into what academic, professional, or vocational schools attended.  
b. Inquiry into language skills, such as reading and writing of foreign languages.

### 8. Education

a. Any inquiry asking specifically the nationality, racial, or religious affiliation of a school.  
b. Inquiry as to what is mother tongue or how foreign languages ability was acquired.

Inquiry after hiring into name and address of person to be notified in case of emergency.

### 9. Relatives

a. Name and address of closest relative.  
b. Any inquiry about a relative which cannot be asked of an applicant.

Inquiry into organization memberships with the qualification, 'Do not list clubs or organizations of a religious, racial, or national character.'

### 10. Organization

a. Ask to list all clubs and organizations where membership is held.\*  
b. Specific inquiry into clubs and organizations which would indicate race, creed, colour, nationality, ancestry or place of origin.

a. Inquiry into willingness to work required work schedule.  
b. Inquiry after hiring about religion to determine when leave-of-absence might be required for the observance of religious holidays.

### 11. Work Schedule

Any inquiry into willingness to work any particular religious holiday.

Inquiry into Canadian military service.

### 12. Military service

Inquiry into all military service.

Any inquiry is forbidden which, although not specifically listed among the above, is designed to elicit information as to race, creed, colour, nationality, ancestry or place of origin in violation of the Ontario Human Rights Code.

\* This does not prohibit the voluntary submission by applicants of such information. It is, however, contrary to the principles of the Code for an employer to request this information.